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February 7, 2013

Honorable Roanne L. Mann, U.S.M.J.
UNITED STATES DISTRICT COURT
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: *John M. Wade v. North American Asset Services, LLC, et al.*
E.D.N.Y. Case No.: 1:12-cv-1111-ARR-RLM

Dear Judge Mann,

I am co-counsel for the Plaintiff in the above-referenced action. Presently pending before the Court are the following motions: (1) Defendants' Joint Letter Motion for Extension of Time to File Response/Reply as to Dkt. No. 60 Order on Motion for Extension of Time to File Response/Reply [Doc. 62]; and (2) Plaintiff's Letter Motion to Strike Defendant's Reply in Support, or, In the Alternative, for Leave to File a Sur-Reply & To Voluntarily Strike Without Prejudice to Future Use Paragraph 23 of Wade Declaration In Support of Opposition to Motion to Compel Arbitration Mooting Defendants' Motion for Out-of-Time Enlargement of Discovery Period [Doc. 65]. For the reasons set forth below, Plaintiff respectfully requests leave to file a Reply brief in further Support of his pending motion (Doc. 65) to address the substance of Defendants' newest arguments and the numerous material factual misrepresentations made in their opposition to his motion (Doc. 66).

In sum, Defendants' latest opposition (Doc. 66) fails to address the substance of the arguments set forth in Plaintiff's motion to strike/sur-reply (Doc. 65) and, instead, they use their opposition as an opportunity to effectively file a *de facto* sur-reply making additional new arguments in further support of their pending Motion for an Out-of-Time Enlargement of Discovery Period (Doc. 62); they continue making serial misrepresentations to the Court.¹ The Defendants'

¹ Notably, Defendants have already filed a Reply brief in further support of their pending out-of-time motion to reopen discovery (Doc. 64) even though Your Honor's Individual Rules, Judge Ross's Individual Rules, and Local Civil Rule 37.3 do not permit the filing of such reply papers. According to Defendants', they advise the Court contacted them on its own volition to invite them to file of a Reply brief. [Doc. 64, Pg. 1 at ¶3]. In either event, Defendants have been permitted to submit nearly twice the number of pages ordinarily allowed under the rules (not including exhibits) in support of their motion (Doc. 62), while Plaintiff has been limited to that which is allowed under the Local Rules.

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collective conduct has, and continues to, cause extreme prejudice to Plaintiff and his rights to due process.

In light of the foregoing, Plaintiff respectfully requests leave to file a Reply to Defendants' latest opposition (Doc. 66) to address the substance of the new arguments and factual misrepresentations contained therein. Of course, if Your Honor is already prepared to Deny Defendants' Joint Motion to Motion for an Out-of-Time Enlargement of Discovery Period (Doc. 62), then there is no need for Plaintiff to file a reply or sur-reply.

Plaintiff thanks Your Honor for the Court's consideration of his herein request.

Very truly yours,

s/ William F. Horn

William F. Horn

via ECF Filing

cc: All Counsel of Record *via ECF Filing only*